

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

IN RE:

KAPS CONSTRUCTION, LLC.

DEBTOR

**ABELARDO “ABEL” HERNANDEZ,
Individually and Derivatively on Behalf of
KAPS CONSTRUCTION, LLC AND K-
LEX MANUFACTURING, INC.
*Plaintiffs,***

v.

**LIONANDO “LARRY” POLANCO,
*Defendant.***

CASE NO. 24-51399

CHAPTER 11

**ADVERSARY
PROCEEDING
NO. 24-05049-CAG**

MOTION TO WITHDRAW AS COUNSEL FOR PLAINTIFFS

TO THE HONORABLE COURT:

Pursuant to L. Rule 2014(e)(2), Santos Vargas, Joshua J. Caldwell, Landon M. Hankins and Rachel Garza of Davis & Santos, PLLC (collectively, “**D&S**”) hereby file this Motion to Withdraw as Counsel for Plaintiffs Abelardo “Abel” Hernandez, Individually and Derivatively on behalf of KAPS Construction, LLC and K-Lex Manufacturing, Inc., (“**Hernandez**”) in support would respectfully show the Court as follows:

1. D&S has good cause for withdrawing as counsel-in-charge for Hernandez under Rule 1.15(b)(5) of the Texas Disciplinary Rules of Professional Conduct. The lawyer’s fee for Hernandez’ representation has not been paid as agreed and multiple reasonable warnings have been given that D&S will withdraw unless the obligation is fulfilled.

2. Notice of D&S's intention to withdraw from this proceeding was provided to Hernandez on October 31, 2024.

3. This Motion is not brought for purposes of delay but so that justice may be done.

WHEREFORE, Santos Vargas, Joshua J. Caldwell, Landon M. Hankins and Rachel Garza of Davis & Santos, PLLC respectfully request that the Court enter an order granting this motion to withdraw as counsel for Hernandez and all other relief to which they may be entitled at law or in equity.

Dated: November 1, 2024

Respectfully Submitted,

DAVIS & SANTOS, PLLC

By: /s/Rachel Garza
Santos Vargas
State Bar No. 24047026
E-mail: svargas@dslawpc.com
Joshua J. Caldwell
State Bar No. 24073988
E-mail: jcaldwell@dslawpc.com
Rachel Garza
State Bar No. 24125240
E-mail: rgarza@dslawpc.com
719 S. Flores Street
San Antonio, Texas 78204
Tel: (210) 853-5882
Fax: (210) 200-8395

Withdrawing Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certified that on November 1, 2024, a true and correct copy of the foregoing document was served on counsel of record and the parties below as follows:

Dennis K. Drake	_____	Hand Delivery
LAW OFFICE OF DENNIS DRAKE	_____	Regular Mail
2929 Mossrock, Ste. 204	_____	Certified Mail/RRR
San Antonio, Texas 78230	_____	Facsimile
E-mail: ddrake@dkdrakelaw.com	_____	E-mail
	<u> X </u>	ECF

Matthew D. Johnson	_____	Hand Delivery
WEST & WEST, GREER & ESTROGA	_____	Regular Mail
2929 Mossrock, Ste. 204	_____	Certified Mail/RRR
San Antonio, Texas 78230	_____	Facsimile
E-mail: matthew@wwgelaw.com	_____	E-mail
	<u> X </u>	ECF

Attorneys for Lionando “Larry” Polanco

Morris E. “Trey” White, III	_____	Hand Delivery
VILLA & WHITE, LLP	_____	Regular Mail
400 N. E. Loop 410, suite 615	_____	Certified Mail/RRR
San Antonio, Texas 78216	_____	Facsimile
E-mail: treywhite@villawhite.com	_____	E-mail
	<u> X </u>	ECF

Attorneys for KAPS Construction, LLC

Eric Terry	_____	Hand Delivery
ERIC TERRY LAW, PLLC	_____	Regular Mail
3511 Broadway	_____	Certified Mail/RRR
San Antonio, Texas 78209	_____	Facsimile
E-mail: eric@ericterryllaw.com	_____	E-mail
	<u> X </u>	ECF

Subchapter V Trustee

James Rose	_____	Hand Delivery
OFFICE OF THE US TRUSTEE	_____	Regular Mail
615 E. Houston St., Ste 533	_____	Certified Mail/RRR
San Antonio, Texas 78205	_____	Facsimile
E-mail: James.Rose@usdoj.gov	_____	E-mail
	<u> X </u>	ECF

US Trustee

/s/Rachel Garza
Rachel Garza